

2 VAC 5-610-10, et. seq., RULES GOVERNING THE SOLICITATION OF
CONTRIBUTIONS

Preamble

This regulation supersedes “Rules Governing the Solicitation of Contributions” adopted in 1978 and amended March 14, 1991. In addition to other changes, this amended regulation removes the forms from the regulation.

Statutory Authority: §57-66, Code of Virginia (1950), as amended.

PART I.

DEFINITIONS

2 VAC 5-610-10 Definitions.

The following words and terms, when used in this chapter, shall have the following ~~meaning,~~
meanings unless the context clearly indicates otherwise:

“Agents” means one or more persons who transact some business, or manage some affair, for another, by the authority and on account of the latter, and who render an account of such business or affair to that other. The term “agents” shall include the term “subcontractors.”

~~“Code” means Code of Virginia (1950), as amended.~~

“Bona fide salaried officer or employee” means a person who is in an employer-employee relationship with a charitable organization, and who is compensated exclusively by a fixed annual salary or hourly wage.

“Budget” means a financial plan of action, ~~which~~ that itemizes expected sources and amounts of income and expenses, and which is ratified by the organization's Board of Directors.

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“Certified audited financial statements” means financial statements prepared by an independent certified public accountant with an opinion rendered, in accordance with generally accepted accounting principles (GAAP). (See §57-53 of the Code of Virginia, Records to be kept by charitable organizations, and 2 VAC 5-610-55.B. of this regulation, Financial standards.)

~~“Certified treasurer's report” means an income and expense statement, and a balance sheet, for the past fiscal year, which has been prepared by the organization's treasurer and certified by him as being accurate and true.~~

“Code” means Code of Virginia (1950) as amended.

“Commissioner” means the Commissioner of the Department of Agriculture and Consumer Services or a member of his staff to whom he may delegate his duties, including, but not limited to, staff of the Division Office of Consumer Affairs. ~~and the division's employees.~~

~~“Community” means a group of people living in the same locality, under the same city, town, or county government.~~

“File with the Commissioner” and “receipt by the Commissioner” means depositing the original of the document required to be filed, along with payment of the appropriate fee and all supporting documentation, with the State Division Office of Consumer Affairs, Washington Building, 1100 Bank Street, Richmond, Virginia 23219. Such documents shall be effective on the date deposited by hand at the stated address during regular business hours, or on the date

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postmarked, if sent by mail, provided such is actually received by the ~~Division~~ Office of
Consumer Affairs subsequent to the mailing.

"Foundation", as referenced in subdivision A 1 of § 57-60 of the Code of Virginia (Exemptions),
means a secondary organization established to provide financial or program support for a
primary organization with which it has an established identity.

"Gross contributions" means the total contributions received by the organization from all
sources, regardless of geographic location, excluding government grants.

"Having an established identity with" means a relationship between two organizations such that
if the primary organization ceased to exist, the secondary organization would also cease to exist.

"Health care institution" means any medical facility that is tax exempt under the Internal
Revenue Code § 501(c)(3) and at least one of the following:

1. Licensed by the State Department of Health or by the State Department of Mental
Health and Mental Retardation and Substance Abuse Services;
2. Designated by the Health Care Financing Administration (HCFA) as a federally
qualified health center;
3. Certified by the HCFA as a rural health clinic; or

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4. Wholly organized for the delivery of health care services without charge, including the delivery of dental, medical or other health services where a reasonable minimum fee is charged to cover administrative costs.

"IRS" means the Department of the Treasury Internal Revenue Service.

"Local civic league or association" means a not-for-profit organization operated to further the common good of the ~~community~~ city, town, or county which it is organized to serve.

"Local service club" means a not-for-profit organization which is organized for the purpose of providing educational services, recreational services, charitable services, or social welfare services to the ~~community~~ city, town, or county in which such organization operates.

"Past fiscal year" means the most recently completed fiscal year.

"Primary address" means the bona fide physical street address of the organization or sole proprietor.

"Primary name" means the name under which an organization is incorporated, if incorporated, or, if not incorporated, has been issued a certificate, by the State Corporation Commission, to transact business in Virginia, if so certified, or, if neither incorporated nor certified to transact business in Virginia, the name by which the organization is commonly known or referred to, except that such name shall not be an assumed name, or a deceptive name, as described in subsection A of Section 2VAC5-610-55 of this regulation.

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"Report," "Register," and "Submit" means "file with the commissioner" as that phrase is defined in this section.

"Subcontractor" means any agent (but not an employee) of a professional solicitor who solicits, under a contract or agreement, on behalf of the professional solicitor for the benefit of any charitable or civic organization with which the professional solicitor has a contract or agreement.

"Trade association" means any nonprofit organization which is determined by the IRS as being tax exempt under section 501(c)(6) of the Internal Revenue Code. an association of business organizations having similar issues and engaged in similar fields formed for mutual protection, exchange of ideas and statistics, and for maintenance of standards within their industry.

"Treasurer's report" means an income and expense statement and a balance sheet for the past fiscal year which has been prepared by the organization's treasurer and verified by him as being accurate and true.

"Unified Registration Statement" means the form created by a committee organized by the National Association of Attorneys General and the National Association of State Charity Officials to consolidate the information and data requirements of all states requiring registration.

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PART II.

RULES GOVERNING CHARITABLE AND CIVIC ORGANIZATIONS.

2VAC 5-610-20 Initial registration.

A. Documentation required. Except as provided in subsection B of this regulation every charitable organization subject to registration, pursuant to §57-49 of the Code of Virginia (Registration of charitable organization), shall file an initial registration statement with the Commissioner. Such registration shall not be considered complete unless accompanied by all supporting documentation, as follows:

1. FEE: The appropriate fee specified on Form 102, "Virginia Registration Statement for a Charitable Organization," made payable to "Treasurer ~~Commonwealth~~ of Virginia";

2. FORM: The completed Form 102, "Virginia Registration Statement for a Charitable Organization," or the completed Unified Registration Statement, with all questions answered, ~~and~~ with two notarized signatures on the ~~form;~~ form, as specified on the form, and with all required attachments;

3. FINANCIAL REPORT: A copy of one of the following:
 - (a) For all organizations with prior financial history:
 - (1) The signed and completed IRS Form 990, 990-PF, or 990-EZ, for the past fiscal year, with Schedule A (Form 990), as required, and all attachments, as filed with the ~~IRS;~~ IRS; or,

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a (2) Certified ~~annual audit~~ audited financial statements for the past fiscal
~~year, year;~~ or,

(3) If the annual income of the organization is less than \$25,000, a
~~certified~~ treasurer's report for the past fiscal ~~year;~~ year.

(b) ~~except that when~~ For a newly organized charitable organization which has no
financial history, a budget for the current fiscal year shall be filed;

4. KEY PERSONNEL: A ~~current~~ listing for the current fiscal year of the officers,
directors, trustees, and principal salaried executive staff officer, including their names
and addresses;

5. CONTRACTS: A signed copy of any and all current contracts with any professional
fund-raising counsel and any professional solicitor, as required in §57-54 of the Code of
Virginia (Contracts between charitable or civic organizations and professional fund-
raising counsel or professional solicitors);

6. GOVERNING DOCUMENTS: If the organization is incorporated, a copy of the
certificate of incorporation, articles of incorporation and any subsequent amendments to
those documents, or, if unincorporated, any other governing documents;

7. BYLAWS: A copy of the organization's bylaws and any subsequent amendments to
that document; and

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8. TAX EXEMPTION: If the charitable organization is listed with the IRS as tax exempt, a copy of the IRS determination letter and any subsequent notifications of modification, or, if exempt status is pending, a copy of the completed IRS application form as filed with the IRS.

B. Consolidated or "joint" registration. A state-wide or national charitable or civic organization may file a consolidated, or "joint," registration with the Commissioner, as described in § 57-49 B of the Code of Virginia (Registration of charitable organization), on behalf of its local chapters, which shall not be considered complete unless accompanied by all supporting documentation specified in subsection A of this section, if:

1. The parent organization shares a group IRS exemption status with its chapters and all financial reporting is consolidated in the parent organization's IRS Form 990, Form 990-PF, or Form 990-EZ, or in its certified ~~annual audit~~ audited financial statements, or, if the organization's annual income is under \$25,000, in its ~~certified~~ treasurer's report; or

2. Each chapter has its own separate IRS exemption status, but the organization's articles of incorporation or bylaws state that all financial matters are managed by the parent organization and all financial reporting is consolidated in the parent organization's IRS Form 990, Form 990-PF, or Form 990-EZ, or in its certified ~~annual audit~~ audited financial statements, or, if its annual income is under \$25,000, in its ~~certified~~ treasurer's report.

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C. Standard of reporting contributions. Any person required to report contributions, pursuant to §57-49 of the Code of Virginia (Registration of charitable organization):

1. Shall report the gross contributions when the solicitation does not include goods or services;
2. Shall report as gross contributions the valuation of any goods or services solicited for resale. Such valuation shall be determined as prescribed in the American Institute of Certified Public Accountants (AICPA) standards for reporting donated goods and services;
3. Shall report the gross contributions when the solicitation includes the sale or donation of tickets for use by third parties, or when the goods or services sold are of nominal value; and,
4. Shall report contributions, which may be for net contributions only, when received from special events including, but not limited to, dinners, dances, carnivals, raffles and bingo games, when the goods or services offered are of more than nominal value in return for a payment higher than the direct cost of the goods or services provided.

2-VAC 5-610-30 Annual registration.

A. Documentation required. Except as provided in subsection B. of this section, every charitable organization subject to registration, pursuant to §57-49 of the Code of Virginia (Registration of charitable organization), shall file an annual registration renewal with the Commissioner on or

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before the 15th day of the fifth calendar month following the end of the organization's fiscal year. Such registration shall not be considered complete unless accompanied by all supporting documentation, as follows:

1. FEE: The appropriate annual fee, specified on Form 102, "Virginia Registration Statement for a Charitable Organization," made payable to "Treasurer, ~~Commonwealth~~ of Virginia":

2. FORM: The completed ~~annual registration form~~, Form 102, "Virginia Registration Statement for a Charitable Organization," or the completed Unified Registration Statement, with all questions answered, ~~and~~ with two notarized signatures on the ~~form~~; form, as specified on the form, and with all required attachments;

3. FINANCIAL REPORT: A copy of one of the following:

a. ~~the~~ The signed and completed IRS Form 990, 990-PF, or 990-EZ, for the past fiscal year, with Schedule A (Form 990), as required, and all attachments, as filed with the ~~IRS~~, ~~or~~ IRS;

b. Certified ~~annual audit~~ audited financial statements for the past fiscal ~~year~~, year; or,

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c. If the annual income of the organization is less than \$25,000, a ~~certified~~
treasurer's report for the past fiscal ~~year~~, year.

4. KEY PERSONNEL: A ~~current~~ listing for the current fiscal year of the officers,
directors, trustees, and principal salaried executive staff officer, including their names
and addresses;

5. CONTRACTS: A signed copy of any and all current contracts with any professional
fund-raising counsel and any professional solicitor, as required by §57-54 of the Code of
Virginia (Contracts between charitable or civic organizations and professional fund-
raising counsel or professional solicitors);

6. GOVERNING DOCUMENTS: If the organization is incorporated, a copy of any
certificate of incorporation, any articles of incorporation, or amendments to these
documents, not previously filed with the Commissioner, or, if unincorporated, any
amendments to the governing documents not previously filed with the Commissioner;

7. BYLAWS: A copy of any bylaws, or amendments to that document, not previously
filed with the Commissioner; and

8. TAX EXEMPTION: If the organization is listed with the IRS as tax exempt, a copy of
any IRS determination letter or subsequent notifications of modification, not previously
filed with the Commissioner.

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B. Consolidated, or "joint," registration. A state-wide or national charitable or civic organization may file a consolidated, or "joint," registration with the Commissioner, as described in §57-49 B of the Code of Virginia (Registration of charitable organization), on behalf of its local chapters, which shall not be considered complete unless accompanied by all supporting documentation specified in subsection A of this section, if:

1. The parent organization shares a group IRS exemption status with its chapters and all financial reporting is consolidated in the parent organization's IRS Form 990, Form 990-PF, or Form 990-EZ, or in its certified ~~annual audit~~ audited financial statements, or, if the organization's annual income is under \$25,000, in its certified treasurer's report; or
2. Each chapter has its own separate IRS exemption status, but the organization's articles of incorporation or bylaws state that all financial matters are managed by the parent organization and all financial reporting is consolidated in the parent organization's IRS Form 990, Form 990-PF, or Form 990-EZ, or in its certified ~~annual audit~~ audited financial statements, or, if its annual income is under \$25,000, in its certified treasurer's report.

C. Standard of reporting contributions. Any person required to report contributions, pursuant to §57-49 of the Code of Virginia (Registration of charitable organizations):

1. Shall report the gross contributions when the solicitation does not include goods or services;

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2. Shall report as gross contributions the valuation of any goods or services solicited for resale. Such valuation shall be determined as prescribed in the American Institute of Certified Public Accountants (AICPA) standards for reporting donated goods and services;

3. Shall report the gross contributions when the solicitation includes the sale or donation of tickets for use by third parties, or when the goods or services sold are of nominal value; and

4. Shall report contributions, which may be reported as the net contributions only, when received from special events, including, but not limited to, dinners, dances, carnivals, raffles and bingo games, when the goods or services offered are of more than nominal value in return for a payment higher than the direct cost of the goods or services provided.

D. Extension of time to file. Any charitable organization that cannot complete its registration renewal on or before the 15th day of the fifth calendar month following the end of the organization's fiscal year, may request in writing, as provided in subsection E of §57-49 of the Code of Virginia (Registration of charitable organization), an extension of time to file. Payment of fees is not required with such a request. Fees are due when the registration is filed. A charitable organization may request an extension of time to file, and an extension may be granted under the following conditions:

1. The charitable organization shall send a letter to the Commissioner, stating that the organization is requesting an extension of time to file its registration renewal. If the organization has requested, from the IRS, an extension of time to file its IRS Form 990,

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Form 990-PF, or Form 990-EZ, the organization may send to the Commissioner a copy of the IRS extension request, in lieu of the letter.

2. If no time period is specified in the written request for extension of time to file, the Commissioner shall grant an extension of time to file of ~~30~~ 90 days.

3. If the charitable organization is unable to complete its registration renewal within the time period granted by the Commissioner in the extension of time to file, the charitable organization may request an additional extension of time to file.

4. In any case, the extension or total of all extensions requested from and granted by the Commissioner shall be for no longer than six months after the 15th day of the fifth calendar month following the end of the organization's fiscal year.

5. The organization's registration shall lapse if the annual renewal is not filed by the 15th day of the fifth calendar month following the end of the organization's fiscal year and no extension of time to file is requested from and granted by the Commissioner, or if the annual renewal is not filed by the end of the extension period granted. If the organization's registration lapses, the organization shall file an initial registration (and pay the initial registration fee in addition to the annual registration fee), as prescribed by 2VAC5-610-20 of this regulation.

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2 VAC 5-610-40. Exemption from annual registration.

A. Documentation required. Any charitable or civic organization claiming exemption from annual registration, pursuant to §57-60 of the Code of Virginia (Exemptions), shall file with the Commissioner an application for exemption from annual registration ~~of the form in the 100 series (Forms 100A—100H)~~ on Form 100, “Virginia Exemption Application for a Charitable or Civic Organization,” ~~corresponding to~~ indicating the category of the exemption claimed. Such filing shall not be considered complete unless accompanied by all supporting documentation, as follows:

1. FEE: A check for \$10, made payable to "~~Treasurer, Commonwealth~~ Treasurer of Virginia;"

2. FORM: The completed ~~applicable form~~ Form 100, “Virginia Exemption Application for a Charitable or Civic Organization” and applicable attachments, with all questions answered, and with an officer’s notarized ~~signatures~~ signature on the form;

3. FINANCIAL REPORT: A copy of one of the following:

a. For all organizations with prior financial history:

(1) The signed and completed IRS Form 990, 990-PF, or 990-EZ, for the past fiscal year, with Schedule A (Form 990), as required, and all attachments, as filed with the ~~IRS~~, IRS; or

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(2) Certified ~~annual audit~~ audited financial statements for the past fiscal
~~year, year;~~ or,

(3) If the organization's annual income is less than \$25,000, a ~~certified~~
treasurer's report for the past fiscal year;

b. For a newly organized charitable organization or civic organization that has no
financial history, a budget for the current fiscal year shall be filed;

4. KEY PERSONNEL: A ~~current~~ listing for the current fiscal year of the officers,
directors, trustees, and principal salaried executive staff officer, including their names
and addresses;

5. CONTRACTS: A signed copy of all current contracts with any professional fund-
raising counsel and any professional solicitor, as required in §57-54 of the Code of
Virginia (Contracts between charitable or civic organizations and professional fund-
raising counsel or professional solicitors);

6. GOVERNING DOCUMENTS: Except as provided in subdivision B 2 of this-section,
if the organization is incorporated, a copy of the certificate of incorporation, articles of
incorporation and any subsequent amendments to those documents, or, if unincorporated,
any other governing documents;

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7. BYLAWS: Except as provided in subdivision B 2 of this-section, a copy of the organization's bylaws and any subsequent amendments to that document; and

8. TAX EXEMPTION: If the organization is listed with the IRS as tax exempt, a copy of the IRS determination letter and any subsequent notifications of modification, or, if tax exempt status is pending, a copy of the completed IRS application form, as filed with the IRS.

B. Additional documentation required for specific categories of exemption. In addition to the documentation required in subsection A of this section, the organization shall submit the following documentation for the specific exemption application ~~forms~~ category named below:

1. ~~Form 100-A,~~ Category A, Educational institution ~~Institutions~~:

a. Educational institutions that do not confine solicitations to their student body, alumni, faculty, trustees, and their families, shall provide a copy of their accreditation certificate, as proof of qualification for this exemption; and

b. Any foundation having an established identity with any accredited educational institution shall provide a copy of the institution's accreditation certificate, and a letter, written by the principal, dean, or the head of the institution by whatever name known, which states that the institution recognizes and corroborates the established identity.

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2. ~~Form 100-B~~ Category B, Solicitation for a Named Individual: In the absence of articles of incorporation and bylaws, the charitable organization shall file a copy of the trust agreement or similar document ~~which~~ that includes the following information:

- a. The names of the persons who control the funds and the fund account;
- b. The number of signatures required to extract funds from the fund account;
- c. A statement that all contributions collected, without any deductions whatsoever, shall be turned over to the named beneficiary for his use; and
- d. A statement, in the event the named beneficiary dies, naming those persons to whom any funds remaining will be distributed upon dissolution of the fund account.

3. ~~Form 100-C~~, Category C, Solicitations not to Exceed \$5,000: A copy of the organization's budget for the current calendar year, and copies of the ~~certified~~ treasurer's reports for the three previous calendar years, or for the calendar years of the organization's existence, if less than three years.

4. ~~Form 100-D~~, Category D, Membership Solicitation Only:

- a. The charitable organization shall submit documentation of the dues structure for each class of members; and

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b. The charitable organization shall submit copies of any membership recruitment correspondence, for the past two mailings.

5. ~~Form 100-E, Category E, Solicitations by a Nonresident Charitable Organization:~~ A complete description of all solicitations to be conducted in Virginia by the organization.

6. ~~Form 100-F, Category F, Solicitations Confined to Five or Fewer Contiguous Cities and Counties:~~

a. The organization applying for this exemption (applicant organization) shall submit a copy of each local solicitation permit with the application for ~~exemption:~~ exemption.

b. If the organization applying for this exemption (applicant organization) grants money to another charitable organization (grantee) that lies within the area covered by this exemption, but pays the grantee's money to the grantee's parent organization that lies outside the area covered by the exemption, then the applicant organization shall keep on file for three years a statement, prepared by the parent organization, that the funds are disbursed to the grantee.

7. ~~Form 100-G, Category G, Civic Organization:~~ Organization: No additional documentation is required.

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8. ~~Form 100-H, Category H, Health Care Institutions.~~ Institutions: The charitable organization shall submit a copy of one of the following in support of the category of application:

a. ~~The license issued by the State Department of Health or by the State Department of Mental Health and Mental Retardation and Substance Abuse Services.~~ Services;

b. Documentation to show that the health institution has been designated by the Health Care Financing Administration (HCFA) as a federally qualified health center;

c. A copy of the HCFA-issued rural health clinic certificate;

d. A copy of the free clinic's purpose as stated in its governing documents; or,

e. If applying as a supporting organization, a copy of the health care institution's documentation (as specified in 1, 2, 3, or 4 above) and a letter from the health care institution's president, or head by whatever name known, acknowledging that the supporting organization exists solely to support the health care institution. If more than one health care institution is supported, supply this documentation for each health care institution.

For any year in which a federally qualified health center fails to qualify for such designation, that health center shall register on Form 102, "Virginia Registration

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Statement for a Charitable Organization," in accordance with §57-49 of the Code of Virginia (Registration of charitable organization) and section 2VAC5-610-20 of this regulation, or submit any other applicable exemption application, in accordance with §57-60 of the Code of Virginia (Exemptions) and section 2VAC5-610-40 of this regulation.

9. Category I, Nonprofit Debt Counseling Agencies: a copy of the nonprofit debt counseling license issued by the State Corporation Commission, pursuant to § 6.1-363.1 of the Code of Virginia.

10. Category J, Area Agencies on Aging: a copy of the agreement between the charitable organization and the Virginia Department for the Aging, pursuant to § 2.2-703 A of the Code of Virginia, which designates the organization as an area agency on aging.

11. Category K, Trade Associations: no additional documentation required.

12. Category L, Labor Unions, Labor Associations, and Labor Organizations: no additional documentation required.

C. Consolidated, or "joint," exemptions. A consolidated, or "joint," exemption from annual registration, as described in §57-60 (e) (C) of the Code of Virginia (Exemptions), will apply to those local chapters, branches, or affiliates which belong to a network membership. In this instance, the parent membership organization shall submit the consolidated application on behalf of its local chapters, branches, or affiliates, and, if exempted, shall submit a membership roster

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annually to the Commissioner. If the exemption category is of a local nature, such as for civic organizations, the exemption shall apply to the local chapters, but not to the parent organization, if the parent organization, in this instance, is soliciting contributions statewide. In this instance, the parent organization shall file its own application for exemption under §57-60 of the Code of Virginia(Exemptions), if applicable, or its own annual registration under §57-49 of the Code of Virginia (Registration of charitable organizations).

D. Primary name. The charitable or civic organization shall include in all solicitations the primary name under which it is registered with the Commissioner.

E. Use of another charitable or civic organization’s name in an appeal by a charitable or civic organization. Pursuant to §57-57 C of the Code of Virginia (Prohibited acts), if the charitable or civic organization uses the name of another charitable or civic organization in its own solicitation, it shall submit Form 121, “Consent to Solicit,” for each charitable or civic organization named in its own solicitation.

F. Preprinted return addresses. Pursuant to §57-57 L of the Code of Virginia (Prohibited acts), the preprinted address on any return envelope, prepared under the direction of the charitable or civic organization and provided to a potential donor, that is not addressed to the charitable or civic organization’s own primary address shall include the name of the business located at the address on the return envelope in the following format:

ABC Charity
c/o XYZ Company
111 Main Street (#)
City, ST Zip Code

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The name on line two may be the name of the professional fund-raising counsel or solicitor, a third party caging company or bank, a commercial mail receiving agency, or other receiver, but in any case must be the name of the company that actually resides at the preprinted address on the return envelope. This requirement does not apply to mail addressed to a United States Post Office box, rented from the U.S. Postal Service.

2 VAC 5-610-50 Discontinuance of solicitations in Virginia.

A. Ceasing solicitations. If a charitable or civic organization ceases to solicit contributions in Virginia, the charitable or civic organization shall notify the Commissioner on or before the 15th day of the fifth month following the end of the organization's fiscal year, and shall submit a copy of the signed and completed IRS Form 990, 990-PF, or 990-EZ, for the past fiscal year, with Schedule A (Form 990), as required, and all attachments, as filed with the IRS, or a certified ~~annual audit~~ audited financial statements for the past fiscal year, or, if the organization's annual income is less than \$25,000, a ~~certified~~ treasurer's report for the past fiscal year.

B. Dissolution of a charitable or civic organization. Upon a charitable or civic organization's dissolution, the organization shall submit a copy of its certificate of dissolution and a statement showing the distribution of its funds. Such statement shall be a copy of the IRS Form 990, Form 990-PF, or Form 990-EZ, with Schedule A (Form 990), as required, and all attachments, as filed with the IRS upon dissolution, or a certified ~~annual audit~~ audited financial statements, or, if annual income is less than \$25,000, a ~~certified~~ treasurer's report, showing the distribution of its funds.

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PART III.

RULES GOVERNING A PROFESSIONAL FUND-RAISING COUNSEL.

2 VAC 5-610-60 Registration of a professional fund-raising counsel.

A. Documentation required for registration. Any professional fundraising counsel subject to registration, pursuant to §57-61 of the Code of Virginia (Registration of professional fund-raising counsels and solicitors), shall file a registration statement with the Commissioner. Such registration shall not be considered complete, unless accompanied by all supporting documentation, as follows:

1. FEE: Annual fee of \$100, made payable to "~~Treasurer, Commonwealth~~ Treasurer of Virginia";
2. FORM: The completed Form 103, "Virginia Registration Statement for a Professional Fundraising Counsel," with all questions answered, and with an officer's notarized ~~signatures~~ signature on the form; and
3. CONTRACTS: A signed copy of any and all current contracts with charitable or civic organizations soliciting in Virginia, as required by §57-54 of the Code of Virginia (Contracts between charitable or civic organizations and professional fund-raising counsel or professional solicitors).

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B. Preprinted return addresses. Pursuant to Section 57-57 L of the Code of Virginia (Prohibited acts), the preprinted address on any return envelope, prepared under the direction of the professional fund-raising counsel and provided to a potential donor, that is not addressed to the charitable or civic organization's own primary address shall include the name of the business located at the address on the return envelope in the following format:

ABC Charity

c/o XYZ Company

111 Main Street (#)

City, ST Zip Code

The name on line two may be the name of the professional fund-raising counsel, a third party caging company or bank, a commercial mail receiving agency, or other receiver, but in any case must be the name of the company that actually resides at the preprinted address on the return envelope. This requirement does not apply to mail addressed to a United States Post Office box, rented from the U.S. Postal Service.

PART IV.

RULES GOVERNING A PROFESSIONAL SOLICITOR.

2 VAC 5-610-70. Rules governing a professional solicitor.

A. ~~Documents~~ Documentation required for registration. Any professional solicitor subject to registration, pursuant to §57-61 of the Code of Virginia (Registration of professional fund-raising counsels and solicitors), shall file a registration statement with the Commissioner. In accordance with § 57-61 A of the Code (Registration of professional fund-raising counsels and solicitors), a professional solicitor may register for and pay a single fee on behalf of all its

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members, officers, agents (including any subcontractors) and employees. For any specific campaign, any agent or subcontractor not directly under contract or agreement to the registered professional solicitor must file its own registration. Such registration shall not be considered complete unless accompanied by all supporting documentation, as follows:

1. **FEE:** Annual fee of \$500, and late filing fee of \$250, if applicable, made payable to "~~Treasurer, Commonwealth~~ Treasurer of Virginia";
2. **FORM:** The completed Form 104, "Virginia Registration Statement for a Professional Solicitor," with all questions answered, and with an officer's notarized ~~signatures~~ signature on the form;
3. **BOND:** ~~An enforceable bond, in the form as herein prescribed,~~ The completed Form 105, "Bond," in the sum of \$20,000 with corporate surety authorized by the State Corporation Commission to act as a surety within the Commonwealth;
4. **GOVERNING DOCUMENTS:** A copy of the certificate and articles of incorporation, if the solicitor is incorporated, and, if a non-resident (foreign) partnership or corporation, the certificate to do business in Virginia, as required by the State Corporation Commission; and
5. **CONTRACTS:** A signed copy of any and all current contracts with charitable or civic organizations soliciting in Virginia, as required by §57-54 of the Code of ~~Virginia~~ Virginia (Contracts between charitable or civic organizations and professional fund-raising counsel or professional solicitors) and all current contracts with any agents or

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subcontractors hired to fulfill the terms of the contracts with those charitable or civic organizations.

B. Written authorization from charitable ~~organization~~ organizations. No professional solicitor or subcontractor shall solicit in the name of, or on behalf of, any charitable or civic organization unless such solicitor has filed with the Commissioner one copy of a written authorization from two officers of such organization, as required in subsection F of §57-57 of the Code of Virginia (Prohibited acts). ~~A copy of the annual contract, signed by two officers of the charitable or civic organization, will serve the purpose of written authorization. When the term of a contract is longer than one year, such~~ Such written authorization shall be submitted on ~~the form, Form 121, "Consent to Solicit," or Form 120 "Solicitation Notice" for all years~~ Form 121, "Consent to Solicit," or Form 120 "Solicitation Notice" for all years ~~subsequent to the initial year of the contract. Form 121, "Consent to Solicit," shall be submitted by the professional solicitor for each agent or subcontractor authorized by the charitable or civic organization to conduct the fundraising campaign. Form 121, "Consent to Solicit," shall be submitted by the professional solicitor for each charitable or civic organization named in a fundraising campaign, in addition to the charitable or civic organization with which the professional solicitor has a contract or agreement.~~

C. Disclosures.

1. Pursuant to §57-55.2 of the Code of Virginia (Charitable solicitation disclosure), each professional solicitor shall, in the course of a an oral solicitation:

~~4.~~ a. Identify himself by:

~~a.~~ (1) Disclosing his own real first name and surname;

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~~b. (2) –Disclosing~~ Stating affirmatively that he is a paid solicitor “paid solicitor”; and

~~e. (3).~~ Disclosing the primary name under which the professional solicitor is registered with the Commissioner or if he is employed by a subcontractor, disclosing the primary name of the subcontractor as identified on Form 121, Consent to Solicit; and

~~2. b.~~ Identify his employing charitable or civic organization by disclosing the primary name, as registered with the Commissioner, of the charitable or civic organization for which the solicitation is being made.

An example of the disclosure for a professional solicitor would be: “This is John Doe, a paid solicitor of XYZ Company. I’m calling on behalf of DEF Charity.”

An example of the disclosure for a subcontractor would be: “This is John Doe, a paid solicitor of XYZ Company. I’m calling on behalf of DEF Charity.”

An example of the disclosure for an employee of a subcontractor would be: “This is John Doe, a paid solicitor of ABC subcontractor. I’m calling on behalf of DEF Charity.”

2 Pursuant to clause iii of §57-55.2 of the Code of Virginia (Charitable solicitation disclosure), each professional solicitor shall, in the course of a written solicitation, include the following statement: “The professional solicitor conducting this campaign,

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(primary name of professional solicitor), files a financial report for each campaign it conducts. Copies of these financial reports are available from the Virginia Office of Consumer Affairs, P.O. Box 1163, Richmond, VA 23218.” This statement shall be in bold typeface no smaller than 10-point with grammatically correct capitalization and lower case letters. The statement shall appear on the front side of the document on a portion that is retained by the potential donor.

3. Pursuant to §57-57 L of the Code of Virginia (Prohibited acts), the preprinted address on any return envelope, prepared under the direction of the professional solicitor and provided to a potential donor, that is not addressed to the charitable or civic organization’s own primary address shall include the name of the business located at the address on the return envelope in the following format:

ABC Charity

c/o XYZ Company

111 Main Street (#)

City, ST Zip Code

The name on line two may be the name of the professional solicitor, a third party caging company or bank, a commercial mail receiving agency, or other receiver, but in any case must be the name of the company that actually resides at the preprinted address on the return envelope. This requirement does not apply to mail addressed to a United States Post Office box, rented from the U.S. Postal Service.

D. Contribution collection devices.

1. Pursuant to subsections A and D and ~~subdivision E clause (i)~~ of subsection F of § 57-61 of the Code of Virginia (Registration of professional fundraising counsels and

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solicitors), for a solicitation campaign employing collection devices, including, but not limited to, vending machines or canisters, the professional solicitor shall maintain a record listing each establishment in which a collection device is placed including:

- a. The name of the establishment;
- b. The primary address of the establishment;
- c. The name of the person in the establishment who granted permission to place the collection device there;
- d. The date the collection device was placed in the establishment; and
- e. The date on which the collection device was removed.

2. The professional solicitor employing contribution collection devices shall comply with the disclosure provisions of subsection C of this section, and with the campaign documents provisions of subsection E of this section.

E. Fundraising campaign forms.

1. The professional solicitor shall submit ~~the Solicitation Notice Form 120, "Solicitation Notice," and the Final Accounting Report fundraising campaign forms, Form 130, "Final Accounting Report,"~~ as required in subsections A and D of §57-61 of the Code of Virginia (Registration of professional fundraising counsels and solicitors), and such

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forms shall not be considered as filed unless all questions are answered and contain original signatures of all required parties.

2. The professional solicitor shall submit the completed ~~Solicitation Notice~~: Form 120, “Solicitation Notice:”

- a. Prior to any fund-raising campaign; and
- b. Annually, on or before the anniversary of the contract date, for any continuous fund-raising campaign.

3. The professional solicitor shall submit an amended Form 120, “Solicitation Notice” within 7 days of any changes to information previously submitted.

~~3.~~ 4. The professional solicitor shall submit, upon cancellation of a fund-raising campaign prior to any solicitations, a copy of the completed ~~Solicitation Notice form~~ Form 120, “Solicitation Notice,” previously filed, with a statement indicating that the campaign has been ~~cancelled~~ canceled. If a campaign is canceled after solicitations have begun, the professional solicitor shall notify the Commissioner of the cancellation, within seven days of the cancellation, and submit Form 130, “Final Accounting Report,” in accordance with §57-61 E of the Code of Virginia (Registration of professional fund-raising counsels and solicitors) and this section of the regulation.

~~4.~~ 5. The professional solicitor shall submit the ~~final accounting report~~: Form 130, “Final Accounting Report:”

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a. Not later than 90 days after the completion date of the ~~specific event~~ solicitation campaign, or in accordance with extensions granted pursuant to § 57-61 E of the Code of Virginia (Registration of professional fund-raising counsels and solicitors), and any subsequent changes in the information submitted shall be reported every 90 days thereafter, for a fundraising campaign of finite duration; ~~which includes a specific event~~; and

b. On an annual basis, not later than 90 days after the anniversary of the contract date, or in accordance with extensions granted pursuant to § 57-61 E of the Code of Virginia (Registration of professional fundraising counsels and solicitors), for a continuous fundraising campaign.

Form 130, "Final Accounting Report," shall not be considered as filed if the completed form does not contain original signatures or if any blanks are not filled in or attachments are missing. Any applicable late filing fees, pursuant to §57-61 E of the Code of Virginia (Registration of professional fundraising counsels and solicitors), will continue to accrue until a completed Form 130, "Final Accounting Report," is filed.

~~5.6.~~ 6. The professional solicitor shall maintain during the solicitation, and for a period of three years thereafter, written commitments, ~~on the form~~ Form 132, "Commitment for Receipt of Donated Tickets," of each person or charitable or civic organization to accept tickets and specifying the number of persons on whose behalf tickets were to be accepted. Such completed forms shall be

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submitted after notice from the Commissioner to produce such, pursuant to
subsection M of §57-57 of the Code of Virginia (Prohibited acts).

F. Subcontractors.

1. Filing requirements.

a. Any subcontractor operating under a contract or agreement with a
registered professional solicitor shall be treated as an agent of that
professional solicitor and is not required to register.

b. Any agent (but not an employee) of a subcontractor operating under a
contract or agreement with that subcontractor to solicit shall register
separately.

2. Authorizations to solicit.

a. Subcontractors shall operate under a written contract and such contract
shall be filed with the Commissioner, pursuant to subdivision A 5 of this
section.

b. Subcontractors shall have written authorization from two officers of
the charitable or civic organization to solicit on their behalf. Such
authorization may be filed on Form 121, "Consent to Solicit."

3. Subcontractors shall keep records in accordance with §57-61 F of the Code of
Virginia (Registration of professional fundraising counsels and solicitors) and
shall furnish either the originals or copies to the registered professional solicitor.

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PART V.

GENERAL PROVISIONS.

2 VAC 5-610-80. General provisions.

A. Deceptive names. No charitable or civic organization, professional solicitor or other person shall solicit contributions using a word, name, symbol or device or any combination thereof, or identifying itself or its client with a word, name, symbol or device or any combination thereof, which is likely to cause confusion, or to cause mistake, or to deceive the public by:

1. Using a name ~~which~~ that may cause an entity to be confused with or mistaken for another previously registered or exempt entity; or
2. Using a name ~~which~~ that may cause a professional solicitor to be confused with or mistaken for a charitable or civic organization, or mistaken for having the status of a charitable or civic organization.

~~B. Primary Name. The charitable or civic organization shall include in all solicitations the primary name under which it is registered with the Commissioner.~~

€ B. Financial standards. Fiscal records shall be kept in accordance with the standards and practices as specified in §57-53 of the Code of Virginia (Records to be kept by charitable organizations), or generally accepted accounting principles and reporting practices of the organization's particular field as recognized by the American Institute of Certified Public Accountants.

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C. Disclosure by for-profit organizations. Every professional solicitor that solicits contributions for a for-profit organization and every for-profit organization required to issue a written statement for contributions received shall include in the disclosure required by §57-55.2:1 of the Code of Virginia (Solicitations by for-profit organizations) a statement that the contributors' donations are not tax-deductible on the contributors' income tax returns.

D. Filing on a holiday. When the date for the annual renewal of registration of a charitable organization, professional fundraising counsel, or professional solicitor falls on a Saturday, Sunday, or a state or federal holiday, filing shall be due on the next day ~~which~~ that is not a Saturday, Sunday, or a state or federal holiday.

E. Change in information filed. Except as otherwise provided by the Code of Virginia or by this chapter, every registered charitable organization, ~~every~~ professional fundraising counsel and ~~every~~ professional solicitor shall report to the Commissioner, in writing, any change in information previously filed with the Commissioner, within seven days after the change occurs.

~~F. Incorporation by reference. All IRS forms referred to in this chapter are hereby incorporated by reference. Forms incorporated by reference may be obtained from any office of the Department of the Treasury Internal Revenue Services.~~

FORMS

Request for Exemption from Annual Registration, OCA-100 (eff. 3/01).

~~Virginia~~ Registration Statement for a Charitable Organization, OCA-102 (rev. 3/01).

~~Applications For Exemption Under § 57-60 Of The Code, Form 102, eff. 3/14/91.~~

~~Virginia Exemption Application: Educational Institutions, Form 100-A eff. 3/14/91.~~

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~~Virginia Exemption Application: Solicitations for a Named Individual, Form 100-B, eff. 3/14/91.~~

~~Virginia Exemption Application: Solicitations not to Exceed \$5,000, Form 100-C, eff. 3/14/91.~~

~~Virginia Exemption Application: Membership Solicitations Only, Form 100-D, eff. 3/14/91.~~

~~Virginia Exemption Application: Solicitations by a Non-resident Charitable Organization, Form 100-E, eff. 3/14/91.~~

~~Virginia Exemption Application: Solicitations Confined to Five or Fewer Contiguous Cities and Counties, Form 100-F, eff. 3/14/91.~~

~~Virginia Exemption Application: Civic Organization, Form 100-G, eff. 3/14/91.~~

~~Virginia Exemption Application: Health Care Institutions, Form 100-H, eff. 3/14/91.~~

~~Virginia Exemption Application: Virginia Registration Statement for a Professional Fund-raising Counsel, Form 103, eff. 3/14/91 OCA-103 (rev. 3/01).~~

~~Virginia Exemption Application: Virginia Registration Statement for a Professional Solicitor, Form 104, eff. 3/14/91 OCA-104, (rev. 3/01).~~

~~Professional Solicitor's Bond, OCA-105 (rev. 3/01).~~

~~Solicitation Notice, OCA-120 (rev. 3/01).~~

~~Consent to Solicit, eff. 3/14/91 OCA-121 (rev. 3/01).~~

~~Solicitation Notice, eff. 3/14/91.~~

~~Final Accounting Report, eff. 3/14/91 OCA-130 (rev. 3/01).~~

~~Schedule A, Accounting for All Ticketing Sales, Including Solicitation for Donated Tickets, OCA-131 Schedule A (eff. 3/01).~~

~~Commitment for Receipt of Donated Tickets, eff. 3/14/91 OCA-132 (rev. 3/01).~~

Adopted by the Board of Agriculture and Consumer Services on May 16, 2002.

This is a full, true, and correctly dated regulation.

Roy E. Seward, Secretary
Board of Agriculture and Consumer Services

Date